

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7507

BILL NUMBER: HB 1660

NOTE PREPARED: Feb 28, 2005

BILL AMENDED: Feb 22, 2005

SUBJECT: Securities division.

FIRST AUTHOR: Rep. Messer

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: ☒ **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill makes various amendments to the law concerning securities regulation.

(A) It changes the time that an application for registration by coordination automatically becomes effective from ten days to 30 days.

(B) The bill provides that if an Indiana office of a registered broker-dealer submits a compliance report indicating material noncompliance with Indiana securities laws, the securities division may conduct a follow-up examination to examine the areas of noncompliance identified in the report.

(C) The bill also changes the requirements for certain exemptions from registration. It provides that:

- (1) enforcement attorneys and prosecution assistance unit attorneys are members of the enforcement department of the securities division;
- (2) employees of the securities division may disclose information to other law enforcement agencies;
- (3) a person who violates the securities law and has not filed a consent with the secretary of state is considered to appoint the secretary of state as an agent for service of process concerning noncriminal actions or proceedings against the person;
- (4) the securities commissioner may adopt rules and issue orders regarding service of process for nonregistered persons;
- (5) the securities commissioner shall determine the amount of a bond for an appeal;
- (6) an appellant shall pay costs associated with the certifying and delivering of transcripts; and
- (7) a court may consider only issues of law for an appeal of an order by the securities commissioner.

(D) The bill provides that it is an unfair and deceptive act or practice for an insurance producer or an insurer to recommend to a senior consumer the purchase or exchange of an annuity that results in another transaction unsuitable for the consumer on the basis of the consumer's:

- (1) investments and other insurance products; and
- (2) financial situation and needs.

(E) The bill also allows the Commissioner of the Department of Insurance (the "commissioner") to conduct investigations and enforce actions to ensure compliance with state laws and rules concerning the sale of variable annuity contracts. It also allows the Commissioner to consult with the Securities Commissioner and use the resources of the Securities Commissioner in making a final determination concerning compliance.

Effective Date: July 1, 2005.

Explanation of State Expenditures: (Revised) *Summary:* Overall, this bill could decrease expenditures of the Securities Division of the Secretary of State (SOS). The exact savings is indeterminable. Some specific examples of these cost savings are presented below.

Provision (C)(3): By allowing the SOS to serve as the agent for service of process, notice of the hearing can be accomplished through certified mail rather than through publication. The exact amount of savings depends on what the cost of publication would have been versus the cost of sending a letter by certified mail. Certified mail usually costs between \$5 and \$10. The cost of notice by publication is unknown, but would depend upon where publication would be required.

Provision (C)(6): Under the bill, the appellant would be required to pay the costs associated with the certifying and delivering of transcripts. To the extent that the appellant rather than the Commissioner pays for these costs, savings would accrue to the state General Fund.

Provision (E): The bill allows the Commission of the Department of Insurance (DOI) to conduct investigations and enforce actions to ensure compliance with state laws and rules concerning the sale of variable annuity contracts. Under the bill, the Securities Commissioner is required to provide timely notice of any violations that are discovered. This bill also allows the DOI to use the resources of the Securities Commissioner in making determinations of compliance. It is estimated that the increase in administrative costs to Commissioner of DOI and the Securities Commissioner could be covered using existing staff and resources.

Explanation of State Revenues: *Provision (C)(5):* This provision allows the SOS to set the bond for appeal at any amount needed. Current law limits the bond amount to \$500. Any increase in revenues will depend upon the amount of the bond and whether the defendant chooses to appear in court. If a defendant does not appear, the amount of the bond is then used to reimburse the SOS for expenses incurred in bringing the action.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Secretary of State; Department of Insurance.

Local Agencies Affected:

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